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10/747,614	12/30/2003	Michael Stokes	003797.00701	2898

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EXAMINER

KOZIOL, STEPHEN R

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2609

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/747,614	Applicant(s) STOKES ET AL.	
	Examiner Stephen R. Koziol	Art Unit 2609	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-26 and 29-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention lacks patentable utility.

- i. The methods, system, and software architecture outlined in claims 1, 14, 18 and 29 respectively, describe an abstract idea that produces neither a physical transformation nor a useful, concrete, and tangible result. Without being encoded onto a computer-readable medium, the method is not realizable. Hence, claims 1-26 and 29-30 contain exclusively nonstatutory functional descriptive material. See MPEP 2106: IV(B)(1)(a), last paragraph and interim guidelines.
 - ii. Claims 2-13, 15-17, 19-26, and 30 merely further describe the methods, system, and software architecture outlined in claims 1, 14, 18 and 29 respectively. As such, they do not rectify the lack of patentable utility in claims 1, 14, 18 and 29 respectively and are themselves nonstatutory functional descriptive material. See MPEP 2106: IV(B)(1)(a), last paragraph and interim guidelines. When nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal, it is not statutory

since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored in a computer-readable medium, in a computer, on an electromagnetic carrier signal does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-2, 4, 6-7, 9-10, 13, 18, 20, 22-24, and 26-30 are rejected under 35 U.S.C. 102(a) as being anticipated by the “Color Consistency and Adobe Creative Suite” White Paper, by Adobe Systems Inc, October 2003.

Regarding claim 1 Adobe discloses a method for controlling a gamut mapping algorithm parameter, the method comprising steps of:

- i. receiving a request to add and/or delete a gamut mapping algorithm parameter element (pg. 16 “Soft Proofing” The Proof Setup > Custom command and corresponding GUI allows the user to override the default behavior of Proof

Colors, thus allowing the user to add and/or delete a parameter of the gamut mapping algorithm.); and

- ii. defining a modified gamut mapping algorithm parameter element responsive to said request. (pg. 16 "Soft Proofing" The Proof Setup > Custom command and corresponding GUI allows the user to override the default behavior of Proof Colors. By overriding the default behavior of Proof Colors, the user directly defines how the image color gamut is displayed thus producing a modified color image gamut responsive to the request to modify).

Regarding claim 2, Adobe discloses a method wherein the request to add and/or delete is a request to replace a pre-existing gamut mapping algorithm parameter element with the modified gamut mapping algorithm parameter element. (pg. 16 "Soft Proofing" The Proof Setup > Custom command allows the user to override the default behavior of Proof Colors. By overriding the default behavior of Proof Colors, the user directly modifies the pre-existing gamut mapping algorithm and replaces it with the modified gamut mapping element.)

Regarding claim 4, Adobe discloses a method wherein the gamut mapping algorithm parameter element is a format of a corresponding gamut mapping algorithm parameter. (pg. 16 "Soft Proofing" The user-modified gamut mapping algorithm parameter element on page 16 is of a format of a corresponding gamut mapping algorithm parameter.)

Regarding claim 6, Adobe discloses a method further comprising steps of receiving a request to adjust the gamut mapping algorithm parameter element (see claim 1 analysis); and adjusting a color management operation for processing an input image in response to said request to adjust (pg. 16 “Soft Proofing” The Proof Colors command allows a user to edit the color gamut parameter elements while viewing a live simulation of the final output.)

Regarding claim 7, Adobe discloses a method wherein the request to adjust is a request to adjust a format of the at least one gamut mapping algorithm parameter between a user defined minimum value and a user defined maximum value. (pg. 16, The Proof Setup > Custom command, which allows the user to override the default color gamut parameters, does not preclude the user from defining a minimum and maximum value of a gamut mapping algorithm parameter.)

Regarding claim 9, Adobe discloses a method wherein the step of adjusting a color management operation is based upon the request to adjust the gamut mapping algorithm parameter element and at least one of: a source device color gamut and a destination device color gamut. (On pg. 16 Illustrator’s Proof Setup dialog box allows specification of a destination profile and rendering intent. Inherent in the destination device profile is the destination device color gamut. Therefore, adjusting a color

management operation would necessarily be based upon the request to adjust the gamut mapping algorithm parameter element and said destination device profile.

Regarding claim 10, Adobe discloses a method further comprising a step of displaying the input image, wherein the input image is configured to be dynamically adjusted responsive to the request to adjust the gamut mapping algorithm parameter element. (Pg. 16 "A valuable feature of the Adobe Common Color Management Architecture is the ability to preview, on the monitor, the appearance of the final output. The Proof Colors command toggles the simulation on and off, and allows editing while viewing a live simulation of the final output.")

Regarding claim 13 Adobe discloses a method further comprising a step of displaying an input image, wherein the input image is configured to be dynamically modified by the modified gamut mapping algorithm parameter element. (Pg. 16 "A valuable feature of the Adobe Common Color Management Architecture is the ability to preview, on the monitor, the appearance of the final output. The Proof Colors command toggles the simulation on and off, and allows editing while viewing a live simulation of the final output.")

Claim 18 has been analyzed and is rejected for the reasons outlined in claim 1 above, as claim 18's limitations do not substantially differ from claim 1 despite those limitations manifesting in system form.

Claim 20 has been analyzed and is rejected for the reasons outlined in claim 4 above, as claim 20's limitations do not substantially differ from claim 4 despite those limitations manifesting in system form.

Claim 22 has been analyzed and is rejected for the reasons outlined in claim 6 above, as claim 22's limitations do not substantially differ from claim 6 despite those limitations manifesting in system form.

Claim 23 has been analyzed and is rejected for the reasons outlined in claim 7 above, as claim 23's limitations do not substantially differ from claim 7 despite those limitations manifesting in system form.

Claim 24 has been analyzed and is rejected for the reasons outlined in claim 10 above, as claim 24's limitations do not substantially differ from claim 10 despite those limitations manifesting in system form.

Claim 26 has been analyzed and is rejected for the reasons outlined in claim 13 above, as claim 26's limitations do not substantially differ from claim 13 despite those limitations manifesting in system form.

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Claim 27 has been analyzed and is rejected for the reasons outlined in claim 1 above, as claim 27's limitations do not substantially differ from claim 1 despite those limitations manifesting in program form.

Claim 28 has been analyzed and is rejected for the reasons outlined in claim 6 above, as claim 28's limitations do not substantially differ from claim 6 despite those limitations manifesting in program form.

Claim 29 has been analyzed and is rejected for the reasons outlined in claim 1 above, as claim 29's limitations do not substantially differ from claim 1 despite those limitations manifesting in system form.

Claim 30 has been analyzed and is rejected for the reasons outlined in claim 6 above, as claim 30's limitations do not substantially differ from claim 6 despite those limitations manifesting in system form.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in **Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966)**, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: (*See MPEP Ch. 2141*)

- a. Determining the scope and contents of the prior art;
- b. Ascertaining the differences between the prior art and the claims in issue;
- c. Resolving the level of ordinary skill in the pertinent art; and
- d. Evaluating evidence of secondary considerations for indicating obviousness or nonobviousness.

6. Claim 3, 5, 8, 11-12, 14-17, 19, 21, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Color Consistency and Adobe Creative Suite" White Paper, by Adobe Systems Inc, October 2003 further in view of "GIMP User's Manual" by Karin Kylander et al. published by Coriolis Group, 1998.

Regarding claim 3, Adobe discloses modifying a gamut mapping algorithm parameter element (see claim 1 analysis). Adobe fails to disclose said gamut mapping algorithm parameter element is at least one of: lightness, chroma, and hue. In the Chapter

"Image Menu: Colors" Kylander discloses modifying lightness, saturation and hue (figure 17.10 the hue-saturation dialog) in the process of adjusting an image's color gamut parameters. Therefor the combined teachings of Adobe and Kylander would have rendered obvious utilization of using lightness, chroma and hue as parameters in modifying a gamut mapping algorithm.

Regarding claim 5, Adobe fails to disclose a method wherein the gamut mapping algorithm parameter element is a format of a corresponding gamut mapping algorithm parameter wherein the format is a non-linear based format. In the Chapter "Image Menu: Colors" Kylander discloses using the "Curves" dialog (figure 17.14 the curves dialog) to adjust a gamut mapping algorithm parameter in a non-linear format (the curve in fig. 17.14 is non-linear). Therefor the combined teachings of Adobe and Kylander would have rendered obvious utilization of using non-linear parameters in modifying a gamut mapping algorithm parameter element.

Claim 8 has been analyzed and rejected for the reasons stated in claim 5 above as claim 8's limitations do not substantially differ from claim 5.

Regarding claim 11, Adobe fails to disclose a method further comprising a step of displaying at least one multi-dimensional color gamut representation of at least one of: a source device and a destination device. In the Chapter "Image Menu: Colors" Kylander discloses displaying at least one multi-dimensional color gamut representation of at

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least one of: a source device and a destination device. (See chapter Image Menu: Colors. Figure 17.14 The Curves Dialog represents a multi-dimensional display of the color gamut representation of the source device. Therefor the combined teachings of Adobe and Kylander would have rendered obvious utilization of displaying a multi-dimensional color gamut representation least one of a source device and a destination device.

Regarding claim 12, Adobe fails to disclose a method wherein the at least one multi-dimensional color gamut representation is configured to be modified by the request to add and/or delete. In the Chapter "Image Menu: Colors" Kylander discloses that the multi-dimensional color gamut representation (figure 17.14) is necessarily modified by the request to add and/or delete (as shown on fig 17.10). An add/or delete request executed through the dialog box in fig 17.10 inherently and necessarily effects the multi-dimensional color gamut representation on fig 17.14. Therefor the combined teachings of Adobe and Kylander would have rendered obvious utilization of at least one multi-dimensional color gamut representation configured to be modified by the request to add and/or delete.

Regarding claim 14, Adobe discloses a method for processing an input image via a gamut mapping algorithm parameter, the method comprising steps of: displaying an input image in the graphical user interface, wherein the input image is configured to be dynamically modified in response to an adjustment to the adjustable gamut mapping

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algorithm parameter (Adobe, Pg. 16 "A valuable feature of the Adobe Common Color Management Architecture is the ability to preview, on the monitor, the appearance of the final output. The Proof Colors command toggles the simulation on and off, and allows editing while viewing a live simulation of the final output."). Adobe fails to disclose displaying an adjustable gamut mapping algorithm parameter in a graphical user interface. Kylander discloses an adjustable gamut mapping algorithm parameter in a graphical user interface in fig 17.10. Therefor the combined teachings of Adobe and Kylander would have rendered obvious utilization of displaying an adjustable gamut mapping algorithm parameter in a graphical user interface and displaying an input image in the graphical user interface, wherein the input image is configured to be dynamically modified in response to an adjustment to the adjustable gamut mapping algorithm parameter.

Regarding claim 15, Adobe fails to disclose a method wherein the gamut mapping algorithm parameter element is a format of a corresponding gamut mapping algorithm parameter wherein the format is a non-linear based format. In the Chapter "Image Menu: Colors" Kylander discloses using the "Curves" dialog (figure 17.14 the curves dialog) to adjust a gamut mapping algorithm parameter in a non-linear format (the curve in fig. 17.14 is non-linear). Therefor the combined teachings of Adobe and Kylander would have rendered obvious utilization of using non-linear parameters in modifying a gamut mapping algorithm parameter element.

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Regarding claim 16, Adobe fails to disclose a method further comprising a step of displaying at least one multi-dimensional color gamut representation of at least one of: a source device and a destination device. In the Chapter "Image Menu: Colors" Kylander discloses displaying at least one multi-dimensional color gamut representation of at least one of: a source device and a destination device. (See chapter Image Menu: Colors.) Figure 17.14 The Curves Dialog represents a multi-dimensional display of the color gamut representation of the source device. Therefore the combined teachings of Adobe and Kylander would have rendered obvious utilization of displaying a multi-dimensional color gamut representation least one of a source device and a destination device.

Regarding claim 17 Adobe fails to disclose a method wherein the at least one multi-dimensional color gamut representation is configured to be modified by the request to modify the at least one multi-dimensional color gamut representation. In the Chapter "Image Menu: Colors" Kylander discloses that the multi-dimensional color gamut representation (figure 17.14) is necessarily modified by the request to modify the at least one multi-dimensional color gamut representation (as shown on fig 17.10). The request to modify the at least one multi-dimensional color gamut representation executed through the dialog box in fig 17.10 inherently and necessarily effects the multi-dimensional color gamut representation on fig 17.14. Therefore the combined teachings of Adobe and Kylander would have rendered obvious utilization of at least one multi-

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dimensional color gamut representation configured to be modified The request to modify the at least one multi-dimensional color gamut representation.

Claim 19 has been analyzed and is rejected for the reasons outlined in claim 3 above, as claim 19's limitations do not substantially differ from claim 3 despite those limitations manifesting in system form.

Claim 21 has been analyzed and is rejected for the reasons outlined in claim 5 above, as claim 21's limitations do not substantially differ from claim 5 despite those limitations manifesting in system form.

Claim 25 has been analyzed and is rejected for the reasons outlined in claim 11 above, as claim 25's limitations do not substantially differ from claim 11 despite those limitations manifesting in system form.

Information Disclosure Statement

7. The Information Disclosure Statement submitted on 30 December 2003 contains art not material to the patentability of any existing claim in the application and is not considered in this Office Action. See MPEP 37 CFR 1.56 and 37 CFR 1.97.

37 CFR 1.56 -- Duty to disclose information material to patentability.

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by § 1.97(b)-(d)

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and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) Prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) The closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

Examiner's Note

8. The referenced citations made in the rejection(s) above are intended to exemplify areas in the prior art document(s) in which the examiner believed are the most relevant to the claimed subject matter. However, it is incumbent upon the applicant to analyze the prior art document(s) in its/their entirety since other areas of the document(s) may be relied upon at a later time to substantiate examiner's rationale of record. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention. W.L. Gore & associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). However, "the prior art's mere disclosure of more than one alternative does not constitute a teaching away from any of these alternatives because such disclosure does not criticize, discredit, or otherwise discourage the solution claimed...." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir. 2004).

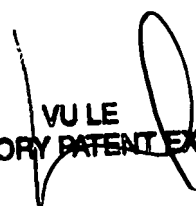
Contact

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Koziol whose telephone number is (571) 270-1884. The examiner can normally be reached on M - alt. F 8:30-6:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. Customer Service can be reached at (571) 272-2600. The fax number for the organization where this application or proceeding is assigned is (571) 273-7332.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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